

REMARKS

Attached hereto is a Petition for an Extension of Time for one month and an Excess Claims letter and fee.

Claims 1, 2, 4-30, and 32-43 are all the claims presently pending in the application. New claims 35-43 are added.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicant gratefully acknowledges the Examiner's indication that claims 6-18 and 21-30 are allowed.

Claims 1-2, 19, 20, and 32-34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bang, et al. (U.S. Patent No. 6,222,873). Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bang, in view of Yoon et al. (U.S. Patent No. 6,396,868).

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

As described and exemplarily defined in claim 1, the present invention is directed to a communication apparatus in which a series of transmission data containing a first signal and a second signal different from said first signal is transmitted.

A transmission power controller separately controls the transmission power of the first signal and second signal, which are consecutively multiplexed in the series of transmission data. A transmitter transmits the series of transmission data containing the first signal and the second signal in the transmission power controlled by the transmission power controller.

II. THE ANTICIPATION AND OBVIOUSNESS REJECTIONS

The Anticipation Rejection

The Examiner alleges that Bang anticipates the present invention as defined by claims 1, 2, 19, 20, and 32-34.

Applicant respectfully disagrees, as follows.

With respect to claim 1, Applicant respectfully submits that Bang fails to teach or suggest at least a transmission power controller for separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data.

Specifically, Bang discloses, *inter alia*, that a power level of a control channel is controlled to be the same as a power of a communication channel, in order to provide an identical condition with that in a simulation, as described in col. 10, lines 50-60 therein. The power levels of the control channel and the communication channel in Bang are controlled by controlling channel gains before these channels are summed at a summing unit, as described at col. 2, lines 22-29, and Fig 1 of Bang. However, Bang fails to disclose or suggest about separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data.

Hence, turning to the clear language of the claims, in Bang there is no teaching or suggestion of: "...a transmission power controller for separately controlling a transmission power of said first signal and said second signal, which are consecutively multiplexed in said series of transmission data", as required by claim 1.

Based on the foregoing reasons, Applicant submits that Bang fails to teach or suggest all of the claimed elements as arranged in claim 1. Thus, Applicants submit that claim 1 is allowable, and respectfully request that the Patent Office withdraw the § 102(e) rejection of claim 1.

With respect to independent claims 19, 33 and 34, Applicant submits that claims 19, 33 and 34 are allowable for at least reasons analogous to those discussed above with respect to claim 1, in that Bang fails to teach or suggest separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data. Thus, Applicant submits that claim 19, 33

and 34 are allowable, and respectfully requests that the Examiner withdraw the § 102(e) rejection of claim 19, 33 and 34.

Further, Applicant respectfully submits that rejected dependent claims 2, 20 and 32 are allowable, *at least* by virtue of their dependency, and respectfully requests that the Examiner withdraw the § 102(e) rejection of claim 2, 20 and 32.

The Obviousness Rejection

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bang in view of Yoon. The rejection of claims 4 and 5 is respectfully traversed.

The combination of Bang and Yoon fails to teach or suggest several of the features of the invention as recited in claim 1. Specifically, as explained above, Bang fails to teach or suggest at least a transmission power controller for separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data.

Yoon discloses, *inter alia*, that a pilot channel and a control channel are multiplexed into a signal at a MUX (e.g., col. 7, lines 36-37; and Fig 9 of Yoon). Amplitudes of the pilot channel and the control channel in Yoon are determined by amplitude control signals before these channels are multiplexed at the MUX (e.g., col. 7, lines 11-37; and Fig 8 of Yoon).

However, Yoon fails to teach or suggest at least separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data. Although the combination of Bang and Yoon discloses that a power of two channels is controlled before these channels are synthesized or multiplexed in a signal, the combination fails to teach or suggest at least separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data. Thus, Applicant submits that the Examiner cannot fulfill the “all limitations” prong of a *prima facie* case of obviousness.

Moreover, Applicant submits that one of ordinary skill in the art would not have been motivated to combine the two references. Since both Bang and Yoon lack any teaching or suggestion at least about separately controlling transmission power of a first signal and a second signal, which are consecutively multiplexed in a series of transmission data, Applicant submits that the Examiner cannot fulfill the motivation prong of a *prima facie* case of obviousness.

Based on the foregoing reasons, Applicant submits that the combination of Bang and Yoon fails to teach or suggest all of the claimed elements as arranged in claim 1, and included via dependency in claims 4 and 5. Thus, Applicant submits that claims 4 and 5 are allowable, and respectfully requests that the Patent Office withdraw the § 103(a) rejection of claims 4 and 5.

New Claims

New claims 35-43 are added to obtain more varied protections for the invention. Applicant respectfully submits that new claims 35-43 are patentable over the applied references due to their novel and unobvious features, which are neither taught nor suggested by the applied art.

Therefore, Applicant submits that the present invention is clearly patentable over the references currently of record.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1, 2, 4-30, and 32-43, all the claims presently pending in the application, are patentably distinct over the references of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Serial No. 09/440,163
Docket No. 323810/98

Date: 4/8/05

Respectfully Submitted,

A handwritten signature in cursive script, reading "Frederick Cooperrider".

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